SERVED: January 31, 1996

NTSB Order No. EA-4424

## UNITED STATES OF AMERICA NATIONAL TRANSPORTATION SAFETY BOARD WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD at its office in Washington, D.C. on the 24th day of January, 1996

DAVID R. HINSON, Administrator,

Federal Aviation Administration,

Complainant,

v.

GENE ALLEN BEASLEY,

Respondent.

Docket SE-13682

## ORDER DISMISSING APPEAL

The Administrator has moved to dismiss the appeal filed by the respondent in this proceeding because the appeal was not perfected by the filing of a timely appeal brief, as required by Section 821.48(a) of the Board's Rules of Practice (49 CFR Part 821). We will grant the motion, to which respondent filed no

(a) Appeal briefs. Each appeal must be perfected within

<sup>&</sup>lt;sup>1</sup>Alternatively, the Administrator moves that the late pleading be struck as not meeting our requirements for an appeal brief under Section 821.48(b) of our rules. Given the disposition above, this motion is moot.

<sup>&</sup>lt;sup>2</sup>Section 821.48(a) provides as follows:

<sup>§ 821.48(</sup>a) Briefs and oral argument.

response.

The record establishes that respondent filed a timely notice of appeal from the oral initial decision the law judge rendered on July 25, 1995, but he did not file an appeal brief within 50 days after that date; that is, by September 13. Respondent's appeal brief was postmarked September 14, 1995.

In the absence of good cause for respondent's failure to comply with the time limit for filing an appeal brief, dismissal of his appeal is required by Board precedent. See <u>Administrator</u> v. Hooper, 6 NTSB 559 (1988).

## ACCORDINGLY, IT IS ORDERED THAT:

- 1. The Administrator's motion to dismiss is granted, and
- 2. The respondent's appeal is dismissed.

HALL, Chairman, FRANCIS, Vice Chairman, HAMMERSCHMIDT and GOGLIA, Members of the Board, concurred in the above order.

## (...continued)

50 days after an oral initial decision has been rendered, or 30 days after service of a written initial decision, by filing with the Board and serving on the other party a brief in support of the appeal. Appeals may be dismissed by the Board on its own initiative or on motion of the other party, in cases where a party who has filed a notice of appeal fails to perfect his appeal by filing a timely brief.

<sup>3</sup>The law judge affirmed an order of the Administrator suspending respondent's airline transport pilot certificate (No. 1721100) for 180 days for his alleged violations of sections 91.131(a)(1), 91.129(h), 91.123(b), and 91.13(a) of the Federal Aviation Regulations, 14 CFR Part 91.

<sup>4</sup>The record reflects that respondent had previously been furnished a copy of the Board's Rules of Practice.